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नई दिल्ली, शनिवार, अक्तूबर 29, 1983/कार्तिक 7, 1905

No. 30]

NEW DELHI, SATURDAY, OCTOBER 29, 1983/KARTIK 7, 1905

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)

PART II—Section 3—Sub-section (iii)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किये गये आदेश और अधिसूचनाएँ

Orders and Notifications issued by Central Authorities (other than Administrations of Union Territories)

भारत निर्वाचन आयोग

1980 as amended by the Court's order dated 21 February, 1983.

नई दिल्ली, 4 अक्तूबर, 1983

[No. 82/BR-HP/1/83]

THE HIGH COURT AT PATNA

(Ranchi Bench : Ranchi)

Election Petition No. 1 of 1980 (R)

Daya Krishna Ghalya ...Petitioner,
Versus.

Sri A. K. Roy ...Respondent.

Copy of Court's Order No 26 Dated 5-8-1983

Learned counsel appearing on behalf of the petitioner has stated that he has got no instruction and that no witness has turned up in this case to depose on behalf of the petitioner. Learned counsel appearing on behalf of the respondent is present in Court. The prayer for adjournment is rejected. Learned counsel is directed to get ready for hearing of the case. The case was called out for hearing after sometime of the above order. The counsel for respondent appears. The counsel for the petitioner though present in Court expresses his inability to proceed with the case. Heard the learned counsel for the respondent No. 1 and also perused

[82/बिहार-लो. सं./1/83]

ELECTION COMMISSION OF INDIA

New Delhi. the 4th October, 1983

O.N. 92.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order dated the 5th August, 1983 of the High Court of Judicature at Patna in Election Petition No 1 of

the relevant papers and the following facts emerge from the same.

The petitioner has challenged the election of Shri A. K. Roy, respondent, who is the returned candidate of 47 Dhanbad Parliamentary Constituency of the district of Dhanbad on various ground enumerated in the petition. The case was specially fixed for hearing today. The main ground for challenging the validity of the election is that the nomination paper of the petitioner and the nomination paper of Shri A. P. Sharma was wrongly rejected by the returning officer of 47 Dhanbad Parliamentary Constituency. If the rejection of the nomination paper is held to be bad in law, then the election of the Respondent in this constituency automatically become void and bad in law. From the perusal of the papers I find that the Deputy Commissioner, Dhanbad was the returning officer who had scrutinised the nomination paper and declared the result of election on 8-1-1980. The scrutiny of the nomination paper book placed on 11-12-1979 and the poll was held on the 6th of January, 1980. After the counting was over on 7-1-1980, the result of the said constituency was declared on 8-1-1980 and the returning officer had declared the respondent as a member of the Indian Parliament from 47 Dhanbad Parliamentary Constituency.

It is alleged that the petitioner was an employee of Bharat Cocking Coal Limited and he had never been managing agent or the Secretary of the Bharat Cocking Coal Limited which is the Company under the control of the Government. On these ground it has been submitted that the petitioner was not disqualified under section 10 of the Representation of Peoples Act (in short 'the Act'). The petitioner is not a government servant. It has been contended that the returning officer wrongly held the petitioner to be a government servant and, hence, rejected the nomination paper. It has been alleged that the nomination paper of the petitioner was rejected after scrutiny was over at about 8 P.M. in the night and it cannot be said that it was done in regular course of business. It has been contended that B.C.C.L. is the independent corporation and it is the limited company under the Company Act and by no stretch, the petitioner can be deemed to be a government servant and the job of the petitioner is not pensionable and he does not come under the purview of Government service rules.

The nomination paper of another candidate namely A.P. Sharma was rejected on the ground that the name of his proposer is not mentioned in the deleted list of the voter list.

Learned Counsel for the Respondent has, however, contended that the election petition is not maintainable under sec-

tion 98 read with section 100 of the Act and as there is no evidence to say that the petitioner is not a government servant. In absence of any cogent evidence on behalf of the petitioner, I find and hold that the petition of the petitioner is not maintainable and is fit to be dismissed under section 98A read with Section 100 of the Act.

Accordingly, I find and hold that the petition is not maintainable and dismissed, but there will be no order for costs.

Let the decision be intimated to the Election Commission of India and the Speaker of the House of People immediately and one authenticated copy of this decision be also sent to the Election Commission of India as early as possible.

Madan Mohan Prasad.

जादेश

नई दिल्ली, 7 अक्टूबर, 1983

आ० अ० 97.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनधित्व अधिनियम, 1951 तथा तदर्थान बनाए गए नियमों द्वारा अपेक्षित समय के भीतर और रीति में उक्त सारणी के स्तम्भ (5) में यथा उपर्युक्त रूप में अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहा है;

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित नहीं है;

अतः, अब निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों का संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कामावधि के लिए निरहित घोषित करता है।

सारणी

क्रम सं०	निर्वाचन की विशिष्टता	विधान सभा निर्वाचन क्षेत्र को सं० और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहता का कारण
1.	पश्चिमो बंगाल विधान सभा के लिए साधारण निर्वाचन 1982	21-राजगज (अ. जा.)	श्री हरेन्द्र नाथ बर्मन, ग्राम- सरदारपारा पो. ओ. भगतपारा जिला जलपाईगुरो, पश्चिमो बंगाल	लेखा दाखिल नहीं किया
2.	पश्चिमो बंगाल विधान सभा के लिए उप-निर्वाचन, 1983	114-गार्डन रीच	श्री रफीक मुस्ताना, क्यू 273/1बी, दावान बाग, कलकत्ता-24 पश्चिमो बंगाल	--वही--

[सं० 76/प. ब./82]

आदेश से,

धर्मवीर, अवर सचिव।

ORDER

New Delhi, the 7th October, 1983

O.N. 93.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the West Bengal Legislative Assembly as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses within the time and in the manner, as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

S. No.	Particulars of election	S.No. & Name of constituency	Name & address of the candidate	Reason of disqualification
1	2	3	4	5
1.	General election to West Bengal Legislative Assembly, 1982.	21-Rajganj (SC)	Shri Harendra Nath Burman Village Sardar para P.O. Bhakti para Distt. Jalpaiguri West Bengal.	Account not lodged
2.	Bye-election to West Bengal Legislative Assembly, 1983.	114-Garden Reach	Sh. Rafique Mustana Q-273/IB, Diwan Bagan Calcutta-24, West Bengal.	-d.-

[No. 76/WB/82

By Order,

DHARAM VIR, Under Secy.

आदेश

नई दिल्ली, 7 अक्टूबर, 1983

अ० प्रा० 94.—निर्वाचन आयोग का समाधान हो गया है कि निम्न सारणी के स्तम्भ 4 में विनिर्दिष्ट प्रत्येक निर्वाचन लड़ने वाला अभ्यर्थी जितने सारणी के स्तम्भ 2 में विहित असम राज्य विधान सभा के लिए उनके नाम के सामने स्तम्भ 3 में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुए निर्वाचन में जैसा की उक्त सारणी के स्तम्भ 5 में दर्शाया गया है जैसा कि लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदधीन बनाए गए नियमों द्वारा अपेक्षित है अपने निर्वाचन व्ययों का कोई भी लेखा समय के भीतर तथा विधि से वांछित करने में असफल रहा है,

और उक्त अभ्यर्थियों ने उसे सम्भव सूचना दिए जाने के बाद भी उक्त असफलता के लिए न तो कोई कारण दिया है और न ही कोई स्पष्टीकरण दिया है और निर्वाचन आयोग का उनके द्वारा दिए गए आवेदनों पर यदि कोई हो तो विचार करने के बाद यह समाधान हो गया है कि उसके पास उक्त असफलता के लिए कोई उपयुक्त कारण या व्याख्येय नहीं है;

अतः अब उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग घोषणा करता है कि निम्न सारणी के स्तम्भ 4 में विनिर्दिष्ट व्यक्ति संसद के किसी सदन के या राज्य का विधान सभा या विधान परिषद के सदस्य चुने जाने या होने के लिए इस आदेश की तारीख से 3 वर्ष की कालावधि के लिए निरहित किया जाता है।

तालिका

क्रम संख्या	निर्वाचनों के विवरण	सभा निर्वाचन-क्षेत्र की क्रम संख्या तथा नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम	निर्हरता का कारण
1	2	3	4	5
13.	असम विधानसभा के लिए साधारण निर्वाचन 1983.	10. सोनाई सभा निर्वाचन क्षेत्र	श्री रविजल हक चौधरी ग्राम ब डाक सोनाबारीघाट जिला कछार असम।	निर्वाचन व्ययों का कोई भी लेखा वांछित करने में असमर्थ रहे।
14.	--वही--	58-तुमूलपुर सभा निर्वाचन क्षेत्र	श्री अभीराम बोरी ग्राम पनबाड़ी डाक कुमारीकारा जिला कामरूप असम	--वही--
15.	--वही--	--वही--	श्री बलमद्र बोरी ग्राम काटाभारी डाक पदमपारा जिला कामरूप असम	--वही--
16.	--वही--	--वही--	श्री शहीद दास ग्राम ब डाक कलाकुची जिला कामरूप, असम	--वही--
17.	--वही--	94 सरपड़ा सभा निर्वाचन क्षेत्र	श्री जीतन साहका ग्राम कोरीका गांव डाक सरंगी गोलाघाट असम	--वही--
18.	--वही--	105-महुमारा	श्री किर्ती छतिया डोमरडलंग गांव डाक डोमरडलंग सब-सागर, असम	--वही--

[सं० 76/असम-बि० सं०/83 (13-18)]

आदेश से,

सी. एस. रोज, अवर सचिव।

ORDER

New Delhi, the 7th October, 1983

O.N. 94.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the Assam Legislative Assembly as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge any account of his election expenses shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidates have either not furnished any reason, or explanation for the said failure even after due notice of the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason of justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of elections	Sl. No. and Name of Assembly Constituency	Name of the contesting candidates	Reason for disqualification
1	2	3	4	5
13.	General election to Assam Legislative Assembly 1983	10—Sonai Assembly Constituency	Shri Rabizul-Haquo Chaudhury Vill. & P.O. Sonabarighat, Distt. Cachar, Assam.	Failed to lodge any account of his election expenses.
14.	-do-	58—Tamulpur Assembly Constituency	Shri Abhiram Boro Vill. Panbari, P.O. Kumarikara, Distt. Kamrup, Assam.	-do-
15.	-do-	-do-	Shri Bilabhadra Boro, Vill. Katahbari, P.O. Padmapara, Distt. Kamrup, Assam.	-do-
16.	-do-	-do-	Shri Shahid Das, Vill. & P.O. Kalakuchi, Distt. Kamrup, Assam.	-do-
17.	-do-	94—Sarupathar Assembly Constituency	Shri Jiten Salkia Vill. Korikagaon, P.O. Marangi, Golaghat, Assam.	-do-
18.	-do-	105—Mahmara	Shri Kirti Chutia Domordalang Gaon, P.O. Domordalang, Sibsagar, Assam.	-do-

[N.D. 76/AS-LA/83 (13 to 18)]

By Order,
C. L. Rose, Under Secy.